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Chairman: Mr. Gómez Robledo ..... (Mexico)

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The meeting was called to order at 10.15 a.m.

Agenda item 148: Report of the Committee on Relations with the Host Country (A/61/26, A/C.6/61/L.11)

1. **Mr. Mavroyiannis** (Cyprus), Chairman of the Committee on Relations with the Host Country, introducing the Committee's report (A/61/26), said that the topics dealt with by the Committee included use of motor vehicles, parking and related matters, acceleration of immigration and customs procedures, entry visas issued by the host country, host country travel regulations, and a question of privileges and immunities. The Committee's recommendations and conclusions were contained in chapter IV of the report. The Committee on Relations with the Host Country was the only forum with the exclusive mandate to address issues arising between Member States and the host country. The equal standing of all its members, the opportunity afforded to observers to voice concerns and the consensual nature of its proceedings had served to legitimize its results.

2. Speaking as the representative of Cyprus, he introduced draft resolution A/C.6/61/L.11 on the report of the Committee on Relations with the Host Country on behalf of the sponsors. He observed that the draft resolution endorsed the Committee's recommendations contained in paragraph 86 of its report. Among other things, it urged the host country to continue to take appropriate action, such as training of relevant officials, to maintain respect for privileges and immunities and ensure that violations were remedied in accordance with applicable law; noted the decision of the Committee on Relations with the Host Country to conduct another review of the implementation of the Parking Programme for Diplomatic Vehicles; requested the host country to consider removing the remaining travel restrictions imposed on staff of certain missions and staff members of the Secretariat of certain nationalities and noted the removal of some of those restrictions during the reporting period; and noted the Committee's anticipation that the host country would enhance efforts to ensure timely issuance of entry visas to representatives of Member States.

3. **Ms. Sotaniemi** (Finland), speaking on behalf of the European Union; the acceding countries Bulgaria and Romania; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Liechtenstein, Norway, Moldova and Ukraine; said that the Committee on Relations with the Host Country continued to serve as an important and necessary venue for addressing the issues and problems that missions accredited to the United Nations might face. The European Union wished to express its appreciation to the host country for its continuous efforts to accommodate the needs and requirements of the vast diplomatic community in New York and remained assured of its commitment to taking all measures needed to guarantee the smooth functioning of the missions.

4. The European Union noted with appreciation the questionnaire distributed by the Chairman of the Committee to all Permanent Representatives concerning the implementation of the Parking Programme. The Union considered the continuing process to review the implementation of the programme important and encouraged all missions to respond to the questionnaire.

5. The European Union fully endorsed the conclusions and recommendations of the Committee on Relations with the Host Country and was confident that, with a spirit of cooperation and full observance of international law, the issues raised could continue to be resolved in a manner agreeable to all parties concerned.

6. **Mr. Vijayan** (India) said that the Committee on Relations with the Host Country was a useful forum for addressing issues related to the functioning of Member States' missions. The open and transparent exchanges of views in the Committee had proved helpful in resolving problems. His delegation appreciated the host country's commitment to fulfilling its obligations under the relevant conventions and agreements and according facilities to the missions accredited to the United Nations to ensure their smooth functioning. The imposition of municipal taxes on diplomatic missions was one such issue to which the host country was giving due attention. The host country's undoubted right to monitor and control entry into its territory and to adopt the requisite security measures had to be reconciled with the right of delegations to participate in the work of the United Nations, while ensuring that they did not misuse their privileges and immunities. His delegation welcomed the steps taken to address the parking problems of diplomatic missions through efficient implementation of the Parking Programme for

Diplomatic Vehicles and hoped that the remaining issues, including the request for parking slots by his Mission, could be addressed soon.

7. **Ms. Ramos Rodríguez** (Cuba) emphasized the importance of the host country complying fully with the relevant provisions of the Convention on the Privileges and Immunities of the United Nations, the 1961 Vienna Convention on Diplomatic Relations and the Headquarters Agreement. The Committee's report mentioned some especially sensitive matters which had a bearing on the efficient operation of diplomatic missions to the United Nations, including travel restrictions imposed by the host country on the personnel of particular missions and on Secretariat staff of certain nationalities. In June 2006 a representative of Cuba had been unable to attend a meeting on the crime of aggression held at Princeton University, simply because a travel request had been arbitrarily and unjustifiably refused. The issuance of a visa for a Cuban national travelling to the same meeting from Havana had been unduly delayed. A travel request for a Cuban representative invited to take part in a New York seminar on the Middle East organized by the International Peace Academy in May 2006 had likewise been refused. Among the members of 40 diplomatic missions to the United Nations invited to the seminar the Cuban representative had been the only one prevented from attending. Diplomats from Cuba working in New York were restricted to an area within a 25-mile radius. It was deeply regrettable that the host country authorities were continuing, on occasion, to refuse their requests to travel beyond that limit for the purpose of attending meetings and events related to the work of the United Nations. That practice placed the members of the Cuban Mission at a disadvantage in the negotiation and adoption of decisions within the United Nations. As a policy, restricting the movements of Cuban diplomats and international officials of Cuban nationality working for the United Nations or accredited to it was unjust, discriminatory and politically motivated. It breached the obligations of the host country under the Headquarters Agreement, as well as the rules of customary international law relating to diplomats. She urged the host country to reconsider its position on the matter in the light of the principles of equality and non-discrimination and the general principles of international law.

8. She welcomed the Committee's decision to conduct a fresh review of the Parking Programme for Diplomatic Vehicles, which should be applied in an equitable and appropriate manner. Some of its provisions were questionable in the light of the universally accepted privileges and immunities of diplomatic missions. The Programme also represented an additional financial and bureaucratic burden for Missions and their staff. Moreover, the competent authorities had introduced measures of execution not provided for in the Programme itself.

9. **Ms. Wilcox** (United States of America) said that since 1946, her country, as host to the United Nations, had fulfilled in every respect its relevant treaty obligations and commitments under international law, and would continue to do so. The host country placed great value on the cooperation and constructive spirit shown by members of the Committee and by the observer delegations which took part in its meetings. The Parking Programme for Diplomatic Vehicles had proved to be a success, since the number of parking tickets received by diplomatic and consular officials in New York was only a fraction of what it had been before the Programme was introduced. Congestion caused by illegal parking near the United Nations had been reduced, easing conditions for residents, and the Programme had also made it easier for Permanent Representatives and their deputies to conduct mission business.

10. A few missions had reported continuing problems with some aspects of the Programme, prompting the Committee to conduct a review of its implementation during the current session of the General Assembly. Host country representatives would continue to work with the City of New York authorities to ensure that the Programme functioned as intended. Her Mission would uphold its commitments to the United Nations community, and expected all members of that community to respect local laws.

11. Concerning restrictions on private non-official travel of members of certain missions, she emphasized that they did not violate international law. The United States was not required to permit all members of missions to travel to other parts of the country, unless they did so on official United Nations business. Travel to unofficial events, such as those organized by universities, was not governed by the relevant international agreements. However, some restrictions

on travel had been modified, and in the past year some had been removed altogether.

12. *Draft resolution A/C.6/61/L.11 was adopted.*

Agenda item 75: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (*continued*) (A/C.6/61/L.9)

13. **Mr. Makarowski** (Sweden), introducing draft resolution A/C.6/61/L.9 on behalf of the sponsors, said that it reflected new developments in international humanitarian law in that it welcomed, in paragraph 1, the universal acceptance of the Geneva Conventions of 1949 and noted the trend towards a similarly wide acceptance of the two Additional Protocols of 1977. In addition, in the preambular paragraphs attention was drawn to the recent adoption of Additional Protocol III to the Geneva Conventions, the entry into force of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the recent publication of the study entitled *Customary International Humanitarian Law* by the International Committee of the Red Cross. Also new was the sixteenth preambular paragraph calling upon Member States to disseminate knowledge of international law as widely as possible and calling on all parties to armed conflict to apply international humanitarian law. As coordinator, he greatly appreciated the understanding shown by delegations of the need for an agreed solution on the draft resolution, in some cases notwithstanding national positions or particular concerns.

14. He announced that China, Ecuador, El Salvador, Fiji, Madagascar, Malta, Mexico, Monaco, Mongolia, Namibia, Nigeria, Peru, the Russian Federation, the former Yugoslav Republic of Macedonia, Uganda, the United Republic of Tanzania and Uruguay had joined the sponsors of the draft resolution.

15. **Mr. Thiam** (Senegal) said that his delegation also wished to become a sponsor of the draft resolution as an expression of his country's attachment to the principles of international humanitarian law.

16. **Ms. Negm** (Egypt), speaking in explanation of position, said that her delegation felt it important to explain its reasons for joining the consensus on the draft resolution despite reservations about the preambular paragraph mentioning Additional Protocol III and the new emblem. That paragraph was to be taken merely as an expression of the latest developments regarding the Additional Protocols and did not in any way represent support for the new emblem. The adoption of Additional Protocol III by a vote without taking into account reservations made during the negotiations had been an unfortunate precedent. Those reservations still stood, chief among them concern that adoption of the new emblem should apply only inside Israel and not in the occupied Arab territories in Palestine or the Golan. When the memorandum of understanding between the Palestinian Red Crescent Society and the Israeli Red Star of David Society had been signed, the representatives of the Israeli Red Star of David Society had given explicit assurances that they would not operate in the occupied territories, including East Jerusalem, without consulting the Palestinian Red Crescent Society and that they would follow the same procedure with respect to the Syrian Red Crescent Society in the Golan Heights. That had not yet happened on the ground. Her delegation also continued to have reservations about amending the Statutes and the Rules of Procedure of the International Red Cross and Red Crescent Movement prior to the entry into force of Protocol III, and about the Israeli Red Star of David Society's inclusion of armed soldiers in its teams, which was a violation of International Federation of the Red Cross resolution XI of 1921. Her delegation wished to see a cessation of violations committed by the national red cross society to which the Protocol was designed to apply. But given the importance of the resolution as a whole to international humanitarian law, her delegation would not oppose it.

17. **Mr. Dolatyar** (Islamic Republic of Iran), speaking in explanation of position, said that, although his delegation joined the consensus on the draft resolution as a sign of support for international humanitarian law, it wished to record its understanding that the fourteenth preambular paragraph should not be interpreted in any way as recognition of the Israeli regime, or of its agencies and instruments.

18. *Draft resolution A/C.6/61/L.9 was adopted.*

Agenda item 33: Comprehensive review of the whole question of peacekeeping operations in all their aspects (*continued*) (A/C.6/61/L.13)

19. **Mr. Barriga** (Liechtenstein), speaking on behalf of the Bureau, introduced draft resolution A/C.6/61/L.13 concerning criminal accountability of United Nations officials and experts on mission, which was a procedural resolution recalling the establishment of a group of legal experts to provide advice on the best way to proceed in order to ensure that United Nations staff and experts on mission would never be effectively exempted from the consequences of criminal acts committed at their duty station, nor unjustly penalized. It had been decided that the Ad Hoc Committee to be established in accordance with paragraph 1 should meet from 9 to 13 April 2007.

20. **Mr. Mikulka** (Secretary of the Committee), referring to rule 153 of the rules of procedure, said that, in accordance with paragraphs 1, 2 and 3 of draft resolution A/C.6/61/L.13, the General Assembly would decide to establish an Ad Hoc Committee open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the report of the Group of Legal Experts on assuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations, in particular its legal aspects. The Ad Hoc Committee would meet from 9 to 13 April 2007 and work on the topic would continue during the sixty-second session of the General Assembly. The draft text also requested the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work.

21. Pursuant to paragraphs 1, 2 and 3, it was envisaged that the Ad Hoc Committee would meet for five days. That meant a total of 10 meetings with simultaneous interpretation in all six languages. Document requirements would be 45 pages pre-session, 25 pages in-session and 16 pages post-session to be issued in all six languages.

22. The conference-servicing requirements for the Ad Hoc Committee were estimated to be US$ 286,843 at current rates. Those requirements were already included in the total meeting-servicing resources already planned and budgeted for the subsidiary bodies of the Sixth Committee for the biennium 2006-2007. Hence no additional resources would be required and the adoption of the draft resolution would have no financial implications under the programme budget for the biennium 2006-2007.

23. *Draft resolution A/C.6/61/L.13 was adopted.*

Agenda item 78: Report of the International Law Commission on the work of its fifty-eighth session (*continued*) (A/C.6/61/L.14, 15 and 16)

Draft resolution A/C.6/61/L.14

24. **Mr. Onisii** (Romania), speaking on behalf of the Bureau, introduced draft resolution A/C.6/61/L.14 concerning the report of the International Law Commission on the work of its fifty-eighth session and said that it followed the pattern of similar draft resolutions adopted in previous years. He drew attention to its provisions.

25. **Mr. Fitschen** (Germany), speaking in explanation of position, said that, while his delegation would, of course, join the consensus on the draft resolution, it was disappointed that the proposal it had made regarding a future topic of work for the International Law Commission had not been included in the draft resolution.

26. Although the proposal had been presented before expiry of the deadline for submitting amendments, the reason given for its non-inclusion was that it had been submitted too late for consideration in the limited time available before the scheduled adoption of the draft resolution. His delegation had, however, suggested the topic in one of its statements during the debate on the Commission's report and during the interactive dialogue between the Committee and the Commission, where it had received the support of many Member States and Commission members.

27. His delegation had been under the impression that the very purpose of the interactive dialogue had been to float ideas and draw some practical conclusions to guide the Commission at the start of the new quinquennium. There was little point in holding a debate between advisers from Governments and Commission members on the deliberations of the Commission on the very day the draft resolution concerning the work of the Commission had to be presented, if the outcome of such a debate could not then be reflected in the draft text.

28. That state of affairs confirmed the findings of the interactive debate, which had led to the recommendation that the Committee should seriously reconsider the ways it dealt with and took decisions on the work of the International Law Commission. Paragraph 11 of the draft resolution rightly welcomed the enhanced dialogue between the International Law Commission and the Sixth Committee. The question of the timing of the debate and the presentation of the resolution on it was one issue where that recommendation ought to be put into practice.

29. **The Chairman** said that he would make it his duty to transmit the conclusions of the interactive debates to the International Law Commission, in writing, in a timely fashion.

30. *Draft resolution A/C.6/61/L.14 was adopted.*

Draft resolution A/C.6/61/L.15

31. **Mr. Onisii** (Romania), speaking on behalf of the Bureau, introduced draft resolution A/C.6/61/L.15 concerning diplomatic protection and drew attention to its contents.

32. **The Chairman** said that paragraph 2 of the draft resolution invited Governments to submit comments concerning the Commission's recommendation that a convention should be elaborated on the basis of the draft articles on diplomatic protection. It was crucial that Governments should take up that invitation in order to improve the dialogue between the Sixth Committee and the International Law Commission.

33. *Draft resolution A/C.6/61/L.15 was adopted.*

Draft resolution A/C.6/61/L.16

34. **Mr. Onisii** (Romania), speaking on behalf of the Bureau, introduced draft resolution A/C.6/61/L.16 concerning allocation of loss in the case of transboundary harm arising out of hazardous activities and drew attention to its contents.

35. *Draft resolution A/C.6/61/L.16 was adopted.*

Agenda item 118: Programme planning

36. **The Chairman** said that the Committee on Programme and Coordination had already approved the section "Legal Affairs" of the biennium programme plan for the period 2008-2009. The Committee did not, therefore, need to take any action on that item at the current stage. If he heard no objections, he would take it that the Committee had concluded its consideration of the item.

37. *It was so decided.*

Agenda item 100: Measures to eliminate international terrorism (*continued*)

Oral report by the Chairman of the Working Group

38. **Mr. Perera** (Sri Lanka) recalled that at its seventh meeting the Committee had decided to establish a working group to continue to carry out the mandate of the Ad Hoc Committee, established by General Assembly resolution 51/210 of 17 December 1996, as contained in General Assembly resolution 60/43 of 8 December 2005. The Working Group was open to all States Members of the United Nations, of the specialized agencies or of the International Atomic Energy Agency. Its Chairman had to keep it informed of the outcome of his bilateral contacts with delegations on the draft comprehensive convention on terrorism and on the convening of the high-level conference, to be held under the auspices of the United Nations, to formulate a joint organized response of the international community to all forms of terrorism. The Working Group had held one plenary meeting, on 3 November 2006, at which it had had before it the reports of the Ad Hoc Committee on its sixth and tenth sessions (A/57/37 and Corr.1, A/61/37) and the report of the Working Group of the Sixth Committee convened during the sixtieth session of the General Assembly (A/C.6/60/L.6). It had also had before it two letters from the Permanent Representative of Egypt, one addressed to the Secretary-General (A/60/329) and the other to the Chairman of the Sixth Committee (A/C.6/60/2). All proposals by delegations concerning the draft comprehensive convention remained on the table for consideration by the Working Group. On 11 and 12 October 2006, as Chairman, he had briefed the Working Group on his bilateral contacts on that subject and on the convening of the high-level conference. He had also met with the President of the General Assembly, who had underlined the importance of working towards finalizing the draft comprehensive convention as a matter of priority.

39. Although no new proposals had emerged during the bilateral contacts, he was encouraged by the positive attitude shown by delegations. Some of them had alluded to the adoption of the global counter-

terrorism strategy as proof of the potential for a consensus solution on the outstanding issues concerning the draft convention. Delegations had expressed their wish to convene a session of the Ad Hoc Committee in the spring of 2007, with informal contacts continuing in the meantime. Intensive informal work would be needed among delegations in order to generate texts to pave the way for an overall agreement on the draft convention.

40. In seeking to reach a consensus on the draft convention, it was generally understood that agreement on draft article 18 was the key to an overall agreement. Achieving such agreement would depend on drawing a clear distinction between the criminal law regime to be established under the draft convention, and international humanitarian law. However, more time was needed to work on new proposals to build upon the language of draft article 18, while preserving its integrity. Emphasis had been placed on preserving, in the drafting process, the *acquis* of the existing law and practice, as reflected in the various sectoral counter-terrorism instruments. It had also been argued that a draft comprehensive convention should cover all existing legal gaps and situations, including acts by armed forces of a State which were not governed by international humanitarian law. The proposal currently on the table in that regard in the context of draft article 2 (A/60/37, annex III A), should be considered alongside issues relating to draft article 18.

41. During the bilateral contacts, some delegations had expressed the view that the convening of a high-level conference should be considered only after agreement had been reached on the draft comprehensive convention, on the understanding that such a conference would help to enhance international cooperation in combating international terrorism. However, other delegations felt that the two issues should not be linked.

42. In order to explore ways of overcoming the existing differences on the draft convention, delegations should work assiduously during the intersessional period on possible compromise texts.

Organization of work

43. **The Chairman** said that the Committee was not yet in a position to take action on draft resolution A/C.6/61/L.17 concerning agenda item 100. Nor could it yet take action on draft resolution A/C.6/61/L.10, concerning agenda item 79, or on draft resolution A/C.6/61/L.18, concerning agenda item 80. Agenda item 110 would be considered at a later stage. He had requested the approval of the President of the General Assembly for the work of the Committee to be extended beyond the target date originally envisaged.

The meeting rose at 11.50 a.m.